

REMARKS

Applicant has carefully studied the Office Action of 05 August 2003 and offers the following remarks. Applicant appreciates the telephonic interview of 11 September 2003 when the Litzenberger reference was discussed relative to the claims. Where appropriate, the interview is referenced in the body of the response.

Claims 1-17 were rejected under 35 U.S.C. § 103 as being unpatentable over Litzenberger et al. (hereinafter "Litzenberger"). Applicant respectfully traverses. For the Patent Office to establish *prima facie* obviousness, the Patent Office must show where each and every element is taught or suggested in the references. MPEP § 2143.03. As Applicant discussed with the Examiner in the telephonic interview, the reference teaches call records and not the claimed operations and management data. The Examiner admitted that these were different and asked that this be presented formally in the response. Applicant herein does so.

Specifically, independent claims 1, 7, and 15-17 recite in the body of the claim "identifying a type of operations and management data" Independent claim 11 recites this element in the preamble, and, as amended, recites it in the body of the claim as well. Operations and management data is data that corresponds to a statistical analysis of the switch's performance.

In contrast, as discussed in the telephonic interview, Litzenberger only shows transmitting a call record over the packet network. A call record is not a statistical analysis of the switch's performance. A call record is data relating to when the call began, when the call ended, who called and who the call recipient was. While element 124 of Litzenberger is an Operations, Administration, Maintenance and Provisioning (OAM&P) element, there is no indication that anything other than a call record is sent to element 124 over the packet network 204. In fact, column 2, lines 36-47 indicate that a call record is distributed to the OAM&P. This is reiterated at column 5, lines 12-15. Applicant has read the reference thoroughly and finds no teaching or suggestion that operations and management data are sent over the packet network.

The Examiner indicated that he would perform a new search, but felt that as long as the element was in each of the independent claims, that the claims defined over the rejection of record.

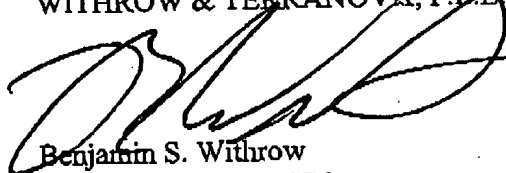
Applicant requests reconsideration of the rejection in light of the remarks presented herein. Since the references of record do not teach sending operations and management data

over the packet network, Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

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